

# **Exhibit Z**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

**STEPHANIE CAPSOLAS, HERNAN RICARDO  
ALVARADO, JEFFREY CUTAIAR, NICOLE  
MEDVITZ, PAUL TORO, DANIEL JANSON,  
ROGER CARO, CHRIS ELL, CHRIS FORBES,  
JESSE PATRICK, and DIANA DIETRICH, on behalf  
of themselves and other similarly situated,**

**Plaintiffs,**

**v.**

**PASTA RESOURCES INC., BABBO LLC d/b/a  
BABBO RISTORANTE ENOTECA, PANE SARDO  
LLC d/b/a OTTO ENOTECA PIZZERIA, EL MONO  
LLC d/b/a CASA MONO and BAR JAMON, LA  
LOGGIA LLC d/b/a TARRY LODGE, MARIO  
BATALI, and JOSEPH BASTIANICH,**

**Defendants.**

**DECLARATION OF  
HENRY CANOSA**

I, Henry Canosa, declare, upon personal knowledge and under penalty of perjury, pursuant to 28 U.S.C. Section 1746, that the following is true and correct:

1. I worked for Casa Mono as a server from approximately May 2007 through approximately February 2008.
2. During my entire tenure at Casa Mono, I was paid hourly wages of less than the full minimum wage rate.

**NOTICE OF THE TIP CREDIT**

3. Throughout my employment, nobody at Casa Mono ever informed me about the federal law regarding the tip credit at any time during my employment. Nobody at Casa Mono ever told me that I would be paid less than the minimum wage because I would receive tips or that my tips would be used as a credit against the minimum wage that Casa Mono was required to pay me.

4. When I started working at Casa Mono and during the entire course of my employment, nobody ever told me about the requirements that Casa Mono had to meet in order to take a tip credit or showed me a copy of or a summary of any laws, rules, or regulations informing me of such requirements.

5. While working at Casa Mono, I do not recall ever seeing any posters, signs, or notices regarding any law, rule, or regulation regarding the requirements that Casa Mono had to meet in order to take a tip credit.

### **TIP SHARING**

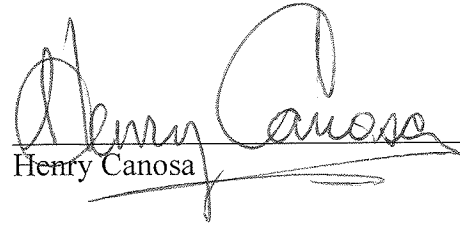
6. During my employment at Casa Mono, I was not allowed to retain all of the tips that I earned.

7. The restaurant's management kept a portion of the customer tips that I and other tipped food service workers earned. The amount that the restaurant's management kept was equal to approximately 4% of the wine sales for the shift.

8. I know this because about once a week I prepared the tip sheets at the end of each shift. The tip sheet showed that 4% of the wine sales for each shift were deducted from the credit card tips. The tip sheet attached as **Exhibit A** is the same as the tip sheets I used at Casa Mono.

9. I do not know where the 4% went. I heard the general manager Amy Clark say that the money went to the sommelier/wine director position. However, there was a period of time of about a month when there was no sommelier/wine director. During that time, the restaurant continued to deduct 4% of the wine sales from the tip pool each shift.

Dated: New York, New York  
September 17, 2010



Henry Canosa

**DINNER**

Day \_\_\_\_\_ Date \_\_\_\_\_ Number of Cuts \_\_\_\_\_ Prepared by \_\_\_\_\_

Waiter	Covers	Charge Tips	Cash Tips
Bartender		Charge Tips	Cash Tips
Total			

Wine Sales: \_\_\_\_\_ - \_\_\_\_\_ = \_\_\_\_\_

Wine Department: 4% of Wine sales: \_\_\_\_\_

Charge tip out: \_\_\_\_\_

Bartender	Charge Tip	Cash Tip
Waiter		
Expo		
Backwaiter		

SERVER = 2 CUTS

EXPO = 1.5 CUTS

BUSSER = 1 CUT

Cash sales \_\_\_\_\_ Cover Count \_\_\_\_\_

Total Sales \_\_\_\_\_